

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Case. No. 6:18-mj-00236-MK

v.

OPINION AND ORDER

TODD MICHAEL GIFFEN,

Defendant.

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MCSHANE, Judge:

This Court found Defendant Todd Michael Giffen incompetent to proceed on June 28, 2019. ECF No. 75. This Court scheduled a *Sell* hearing to determine whether Mr. Giffen should be forcibly medicated to render him competent to stand trial. ECF No. 111. On June 11, 2020, Defendant objected to appearing by video conference at the hearing. ECF No. 126. This Court vacated the hearing and the parties briefed the appearance issue. ECF No. 126, 127, 128.

Federal Rule of Criminal Procedure 43 requires a defendant's presence for specific proceedings. *See* Fed. R. Crim. P. 43(a). Mr. Giffen concedes that Rule 43 does not mandate his presence at the *Sell* hearing. Def.'s Br. 2, ECF No. 127. Defendant is currently housed at the Federal Medical Center in Butner, North Carolina. Gov.'s Resp. 2, ECF No. 128. While the Court would prefer Mr. Giffen's presence, the circumstances warrant proceeding with Mr. Giffen's appearance by video conference only. Defendant's request to appear in person at the *Sell* hearing is DENIED.

IT IS SO ORDERED.

DATED this 23rd day of June, 2020.

s/Michael J. McShane

**Michael J. McShane**  
**United States District Judge**